

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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	:	
JOHN T. METCALF, derivatively and on behalf	:	
of Eagle Bulk Shipping Inc.,	:	ECF CASE
	:	
Plaintiff,	:	11-cv-03996-AKH
	:	
v.	:	
	:	
SOPHOCLES N. ZOULLAS, ALEXIS P.	:	
ZOULLAS, DOUGLAS P. HAENSEL, JON	:	
TOMASSON, JOSEPH M. CIANCIOLO,	:	
DAVID B. HILEY, THOMAS B. WINMILL,	:	
FORREST E. WYLIE, ALAN S. GINSBERG,	:	
	:	
Defendants,	:	
	:	
and	:	
EAGLE BULK SHIPPING INC.,	:	
	:	
Nominal Defendant	:	
	X	

**DEFENDANTS' NOTICE OF MOTION**

PLEASE TAKE NOTICE that, pursuant to Federal Rules of Civil Procedure 23.1(b) and 12(b)(6), upon the Memorandum of Law in Support, and the accompanying Declaration and Associated Exhibits, and upon all prior proceedings and papers filed herein, nominal defendant Eagle Bulk Shipping Inc. and defendants Sophocles Zoullas, Alexis Zoullas, Douglas Haensel, Jon Tomasson, Joseph Cianciolo, David Hiley, Thomas Winmill, Forrest Wylie, and Alan Ginsberg, by their undersigned counsel, will move this Court before the Honorable Alvin K. Hellerstein, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, Courtroom 14D, New York, New York, at a time and date convenient for the Court, for an order (1) dismissing with prejudice Count I for failure to state a claim upon which relief can be

granted; and (2) dismissing with prejudice Counts II-IV for failure to plead futility of demand with particularity and (3) granting such other relief as this Court may deem just and proper.

Dated: September 7, 2011

Respectfully submitted,

WILMER CUTLER PICKERING HALE  
AND DORR LLP

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